

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 0 — 1 0

2. STATE:

WV

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

07-01-00

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

Social Security Act 1917(a)(42U.S.C. 1396p)

7. FEDERAL BUDGET IMPACT:

a. FFY 2000 \$ -0-

b. FFY 2001 \$ -0-

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

General Provisions, 4.17, Page 53
ATTACHMENT 4.17-A, Page 4

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

General Provisions, 4.17, Page 53

10. SUBJECT OF AMENDMENT:

Permanently Institutionalized

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Elizabeth S. Lawton

13. TYPED NAME:

Elizabeth S. Lawton

14. TITLE:

Commissioner

15. DATE SUBMITTED:

September 28, 2000

16. RETURN TO:

Elizabeth S. Lawton
Bureau for Medical Services
350 Capitol Street, Room 251
Charleston, WV 25301-3706

Revision: HCFA-PM-95-3 (MB)
May 1995

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: West Virginia

Citation

42 CFR 433.36 (c)
1902 (a) (18) and
1917 (a) and (b) of
the Act

4.17 Liens and Adjustments or Recoveries

(a) Liens

X The State imposes liens against an individual's real property on account of medical assistance paid or to be paid.

The State complies with the requirements of section 1917 (a) of the Act and regulations at 42 CFR 433.36 (c) - (g) with respect to any lien imposed against the property of any individual prior to his or her death on account of medical assistance paid or to be paid on his or her behalf.

_____ The State imposes liens on real property on account of benefits incorrectly paid.

X The State imposes TEFRA liens 1917 (a) (1) (B) on real property of an individual who is an inpatient of a nursing facility, ICF/MR, or other medical institution, where the individual is required to contribute toward the cost of institutional care all but a minimal amount of income required for personal needs.

The procedures by the State for determining that an institutionalized individual cannot reasonably be expected to be discharged are specified in Attachment 4.17-A. (NOTE: If the State indicates in its State Plan that it is imposing TEFRA liens, then the State is required to determine whether an institutionalized individual is permanently institutionalized and afford these individuals notice, hearing procedures, and due process requirements.)

X The State imposes liens on both real and personal property of an individual after the individual's death.

TN. 00-10
Supersedes
TN. 95-15

Approval Date OCT 27 2000 Effective Date 7-1-2000

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: West Virginia

Process by which individuals of a medical institution cannot reasonably be expected to be discharged and returned home. The individual will be considered permanently institutionalized.

There is established a rebuttable presumption that a recipient is permanently institutionalized if the recipient has been in residence in an institution for six (6) months or longer.

The presumption of permanent institutionalization after six (6) months can be rebutted by documentation that the recipient will be discharged within a reasonable period of time not to exceed three (3) months and that the recipient has a place to which he/she can return. If the individual is not discharged within this three (3) month period, a presumption of permanent institutionalization will be reestablished.

If it is determined that a recipient is permanently institutionalized, the recipient and his/her legal guardian will be informed in writing and the rights to a hearing and the hearing process will be explained.

The recipient and/or the legal guardian will have thirty (30) days from the date of receipt to request a hearing.

The hearing process will follow the usual hearing procedure of two (2) levels. An informal first level followed by a written decision and then recourse to the next level which is a evidentiary hearing before the Commissioner or his/her designee. Any medical documentation and/or evidence submitted will be reviewed by appropriate medical personnel. The Commissioner or his/her designee will consider medical evidence from the recipient's physician and/or evidence from the recipient's family regarding the ability to be discharged and return home.

No lien will be placed upon property belonging to a recipient until after a final determination is made. Any lien will be dissolved within thirty (30) days upon a recipient's discharge from a facility and return home.

TN NO: 00-10
Supersedes
TN NO: NEW

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